

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

Case No. 18-cv-00068

UNITED STATES OF AMERICA, *et al.*,

Defendants,

and

KARLA PEREZ, *et al.*,

STATE OF NEW JERSEY,

Defendant-Intervenors.

**THIRD NOTICE OF COMPLIANCE WITH
THE COURT'S ORDER [ECF No. 576]**

On July 16, 2021, the Court granted Plaintiffs' Motion for Summary Judgment in part, ECF No. 575, and issued a permanent injunction, ECF No. 576. The injunction permits the Federal Defendants to continue to accept but not grant requests from initial requestors and to continue to grant renewal requests from existing DACA recipients. Pursuant to the Court's order, the Federal Defendants submit the following:

1. As noted in prior filings, the Federal Defendants have taken measures to halt the processing of initial DACA requests, and to rectify any inadvertent grants of initial DACA requests. *See* ECF Nos. 578, 578-1.
2. As discussed in prior notices and the attached declaration, for initial DACA requests, the Federal Defendants have ceased all processing steps after the processing of EAD application fees and the sending of a notice of receipt to the DACA requestor. *See* Declaration of Tracy L. Renaud ¶ 4; ECF Nos. 578, 578-1. Thus, in an abundance of caution, the Federal Defendants have taken substantial measures to halt all biometrics appointments for initial DACA requestors nationwide. *See* Decl. ¶¶ 5-6; ECF Nos. 578, 578-1.
3. Despite those efforts, a total of 610 such requestors have had biometrics taken since July 16, 2021, 600 of whom were initial DACA requestors who appeared for appointments that had been scheduled prior to the injunction, despite agency efforts to notify initial requestors not to show up for their appointments and to inform ASC personnel not to process this population.. Decl. ¶ 6.¹

¹ Given the Federal Defendants' continuing efforts to not schedule initial DACA requestors for biometrics, and the administrative and non-adjudicative nature of such collections, the Federal Defendants do not intend to provide additional updates to the Court regarding the incidental collection of biometrics for initial DACA requestors, absent contrary instructions from the Court.

4. Moreover, in the limited number of instances where noncitizens have had their initial DACA requests inadvertently granted, USCIS has taken immediate corrective actions.

The Federal Defendants explained in their July 27, 2021 notice that USCIS had inadvertently approved nine initial DACA requests—USCIS notified those individuals who received approvals that the approvals were void at the time they were issued, and USCIS took further steps to prevent additional errors. *See* ECF Nos. 578, 578-1.

5. More recently, the Federal Defendants became aware that adjudicators had mistakenly believed that two other initial DACA requests and employment authorization applications were in fact renewal requests. *See* Decl. ¶ 8. USCIS also notified those individuals that the approvals were void at the time they were issued, and USCIS has continued to actively identify those DACA requests that are barred from approval by the court's injunction. *Id.* ¶ 9.

Dated: September 21, 2021

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 21, 2021, this document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ James J. Walker

JAMES J. WALKER